



The Appeals Board accepts jurisdiction of this appeal because it concerns a dispute regarding whether claimant's injury arose out of and in the course of his employment. A decision on that disputed issue is expressly made subject to review by the provisions of K.S.A. 44-534a.

After considering the comments made by counsel in oral argument, review of the entire record, and study of the briefs submitted by the parties, the Appeals Board finds claimant's injury did arise out of and in the course of his employment.

Most of the material facts are not in dispute. Claimant injured his low back while doing stretching exercises prior to resumption of the physical work he performed for respondent. Claimant, who had suffered a previous work related low back injury, had been instructed to perform stretching exercises by his treating physician and physical therapist. He had also been encouraged to do the stretching exercises in a safety video presented by respondent. As indicated in Kauffman v. Co-operative Refinery Assn, 170 Kan. 325, 225 P.2d 129 (1950), injury from activities preparing to begin work may be considered compensable. In that case the employee was changing clothes in a change house before beginning his work. He bent over to tie his shoes and suffered an injury. Claimant's activities at the time of his injury in this case are no less work related. The Appeals Board finds that there is a sufficient nexus between claimant's activities and its work to hold that the injury did arise out of and in the course of his employment. Accordingly, the decision by the Administrative Law Judge is hereby affirmed.

#### **AWARD**

**WHEREFORE**, it is the finding, decision and order of the Appeals Board that the Order of Administrative Law Judge John D. Clark dated March 28, 1994, is hereby affirmed in all respects.

**IT IS SO ORDERED.**

Dated this \_\_\_\_\_ day of June, 1994.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

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John D. Clark, Administrative Law Judge  
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